

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Saturday, September 10, 2005 in Room 4401 of the Grant Sawyer State Office Building at 555 E. Washington Avenue, Las Vegas, Nevada 89101.

The following Board members were present at the roll call:

Stephanie Youngblood, DC, President
Margaret Colucci, DC, Vice President
Donald H. Miner, DC, Secretary
Curtis Potts, DC, Member
David Howard, Consumer Member

Also present were Deputy Attorney General David Newton and CPBN Executive Director Cindy Wade.

At 12:02 PM Dr. Youngblood determined that a quorum was present and called the meeting to order. Member Dr. Ian Yamane arrived at 12:04 PM.

AGENDA ITEM 1 Dr. Miner moved for approval of the agenda. Dr. Colucci seconded and the motion passed unanimously.

AGENDA ITEM 2 Dr. Colucci moved for approval of the August 23, 2005 meeting minutes. Dr. Potts seconded and the motion passed unanimously.

AGENDA ITEM 3 There was no public comment.

CONSENT CALENDAR

Dr. Miner moved for approval of the Consent Calendar as follows:

AGENDA ITEM 4 **Approve** reinstatement of License No. B879 to JoAnne Jahnke, DC.

AGENDA ITEM 5 **Approve** granting of Chiropractor's Assistant and Chiropractor's Assistant for Massage certificates as per the attached list.

AGENDA ITEM 6 Approve augmentation of 2005/06 budget as proposed.

Dr. Colucci seconded the motion and it passed unanimously.

AGENDA ITEM 7 The matter concerning administrative hearing and/or possible action on proposed Settlement Agreement in the matter of Mark Rubin, DC, was postponed pending the arrival of Dr. Rubin and his attorney.

AGENDA ITEM 8 With respect to the application for DC licensure of Rudy Scott, Executive Director Cindy Wade informed the Board that Mr. Scott did successfully pass the August 10, 2005 examination. Subsequently, a complaint was received from a DC's office manager because an applicant for a CA for Massage position told her she was adjusted by Rudy Scott who is an instructor at her massage therapy school. Mr. Scott received proper notice of this matter. Following discussion with Mr. Scott in which he stated that he had performed a few undocumented adjustments, Dr. Miner moved to grant a license to Dr. Scott under the conditions that he be on probation for two years and pay a \$1,000 fine. Dr. Potts seconded. After further discussion Dr. Miner amended the motion to include the requirement that any violation will be cause for Mr. Scott to appear again before the Board for review. Dr. Potts seconded the amended motion. Dr. Miner then amended the motion to include that Mr. Scott reimburse the Board for its expenses not to exceed \$500. Dr. Potts seconded the second amended motion and it passed with all in favor and Dr. Colucci recused. Cindy Wade was directed to work out a payment plan with Rudy Scott.

AGENDA ITEM 7 It was noted that Mark Rubin, DC, and his attorney, Aurora Maskall, were present. Deputy Attorney General David Newton presented the terms of the proposed Agreed Settlement of Disciplinary Action and Order in the Matter of Mark Rubin, DC, License No. B486, pursuant to Case Nos. 04-22, 04-25 and 04-27. Following discussion of the terms of the agreement with Dr. Rubin and Ms. Maskall, Dr. Potts moved to accept the Agreed Settlement as proposed. Dr. Colucci seconded and the motion passed with all in favor and Dr. Miner recused. Dr. Rubin presented a check for \$3,250 in partial payment of the \$13,000 fine plus costs as per the agreement.

AGENDA ITEM 9A Dr. Youngblood distributed copies of a letter that was received from Daniel Nightingale and requested that the Board members read it. She then presented a letter of request for a continuance from Dr. Nightingale's attorney, Margo Piscevich. Dr. Miner moved to deny the request for a continuance. Dr. Yamane seconded and the motion passed with all in favor.

Dr. Miner stated that unless there was new information to consider with respect to Daniel Nightingale's case, he would move that the Board not reconsider the amount of fine assessed against Mr. Nightingale. The motion was seconded by Mr. Howard and passed unanimously.

AGENDA ITEM 9B In light of the above decision, the item for reconsideration of the amount of the fine assessed against Dr. Nightingale was not addressed.

AGENDA ITEM 10 Cindy Wade reported that she is now satisfied with the format in which TCG Marketing has agreed to submit their referral bureau reports. Dr. Miner moved to approve TCG Marketing's request to provide a referral bureau service in Nevada. Dr. Youngblood seconded and the motion passed unanimously.

AGENDA ITEM 11 The matter of Scott Wiese's application for reinstatement of License No. B307 was postponed until the afternoon when Mr. Wiese could be present.

AGENDA ITEM 12 Dr. Andrew Kidder's request for a continuance of the remainder of his probationary period was again reviewed as well as a proposal submitted by Dr. Bill Bailey in which he will find an Idaho licensee to monitor Dr. Kidder's practice for the remainder of his probationary period who may be acceptable to the Idaho Board. Dr. Miner moved to accept Dr. Bailey's proposal. Dr. Colucci seconded the motion which passed unanimously.

AGENDA ITEM 13A Complaint No. 96-38 was postponed until the afternoon.

AGENDA ITEM 13B Complaint 05-18 was filed by an applicant for CA for Massage who stated that she was adjusted by an unlicensed DC who is an instructor at her massage therapy school, although the instructor has told her she did not perform an adjustment on her. Dr. Miner moved to refer this matter to the office of the District Attorney. Dr. Potts seconded and the motion passed unanimously.

AGENDA ITEM 13C This matter was resolved under Agenda Item 8. Dr. Miner moved to dismiss Complaint 05-20. Dr. Youngblood seconded the motion and it passed with all in favor.

AGENDA ITEM 11 Scott Wiese was present. His attorney, Joe Colvin, was present on a speaker phone. Dr. Miner explained that Mr. Wiese has requested reinstatement of his Nevada license which he allowed to lapse 7 years ago when he moved to Costa Rica. He is unable to provide evidence that he actively practiced during the 7 years that he was in Costa Rica. Prior to his leaving the country in 1999 he was served a Notice of Intended Action by the Board's Deputy Attorney General pursuant to a complaint concerning his employees, who were not registered with the Board as Chiropractor's Assistants, for conducting spinal screenings during which he did not provide immediate and direct supervision of their conduct. Dr. Wiese presented an Affidavit of Glenn Levy, DC, which addresses this matter. It was read in its entirety and a copy is attached for the record. This complaint is still pending. David Newton advised that the issues of the complaint may not be addressed at this meeting because it is not on the agenda. Dr. Yamane moved that Scott Wiese be required to pay the appropriate fees to activate his license from its current suspended state and that he be required to take and pass the National Board SPEC test. Following discussion, Dr. Yamane amended his motion to include that Scott Wiese be required to also take and pass the Nevada Law test. David Howard seconded the motion and it passed with all in favor.

AGENDA ITEM 13A Dr. Miner described the allegations in Complaint 96-38. This complaint is to be further investigated.

AGENDA ITEM 14 The following issues were addressed pursuant to the Executive Director's Reports:

Under Agenda Item 14C, Status of Current Probations, Cindy Wade presented a letter from Dr. Mark Mattoon's attorney informing the Board that Dr. Mattoon has had a heart attack. He requested a stay of all proceedings and a stay of execution of the Board's June 22, 2005 Order. He will advise the Board of Dr. Mattoon's condition in approximately 45 days upon further diagnosis and prognosis.

Pursuant to an inquiry from Dr. Tad Tenney's compliance monitor, Michael Miscoe, Dr. Potts will consult with former Board member Dr. Bill Bailey and will respond.

AGENDA ITEM 15 Legislative Committee Chair Dr. Don Miner reported that September-October is the last month for the Board's lobbyist to be on retainer unless he is made aware of any assignments that need her expertise.

AGENDA ITEM 16 Under the Correspondence Report, Dr. Youngblood presented a letter from a complainant whose complaint was recently dismissed by the Board. She requested the Board's assistance on how to respond. Dr. Miner will craft a response as Board Secretary.

Cindy Wade commented that ABIME (American Board of Independent Medical Examiners) has submitted a number of applications for CE seminars but they do not have a sponsor as required by our regulations. She has recommended that they apply to the Board to be approved as their own sponsor. This will be on the next meeting agenda if they respond.

Cindy Wade requested that a letter of appreciation be sent to Dr. David Rovetti for his service on the CE Committee for the past several years. CE Chair Dr. Youngblood will write the letter.

AGENDA ITEM 17 Mr. Howard expressed his appreciation for the opportunity to sit on the Board and stated that he is pleased with the proceedings that took place today.

AGENDA ITEM 18 There was no public comment.

AGENDA ITEM 19 The meeting adjourned at 2:50 PM.

Approved: October 14, 2005

Donald H. Miner, DC, Secretary